

General Information Letter: Railroad Retirement Board payments.

April 7, 1998

Dear:

This is in response to your letter to Secretary of State George Ryan, dated March 19, 1998, which was forwarded to me for response. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you have stated the following:

I have a dispute with the IRS concerning taxable income. I am currently on disability annuity from the Railroad Retirement Board. The State of Illinois does not consider this as taxable income. Congress has deemed some of this as taxable income. A complicated formula must be applied to determine what part, if any, of this annuity is taxable income. Please give me the reasoning of this difference of opinion in Federal and State application of the same moneys. I have filed an appeal notice with tax court and would use your answer as part of my defence.

Ruling

The computation of an individual's taxable net income for Illinois Income Tax purposes begins with that individual's "adjusted gross income," as computed for federal income tax purposes. See Section 203(a)(1) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 et seq.). Various amounts are then added to or subtracted from federal adjusted gross income under Section 203(a)(2) of the IITA.

Prior to 1984, Social Security and Railroad Retirement Benefit payments received by an individual were excluded from federal gross income. Because Section 203(a)(2) of the IITA contained no provision regarding these items, they were automatically excluded from Illinois net income.

In Public Law 98-21, Congress added Section 86 to the Internal Revenue Code, which required some taxpayers to include some Social Security and Railroad Retirement Benefit payments in their federal gross income for taxable years beginning after December 31, 1983. The portion of Railroad Retirement Benefit payments which could potentially be included in federal gross income is

determined by a complicated formula contained in Section 72(r) of the Internal Revenue Code.

After Public Law 98-21 was enacted, the Illinois General Assembly enacted Public Act 83-1500, which added Section 203(a)(2)(L) to the IITA. That section provides that an individual should compute his or her Illinois net income by subtracting from federal adjusted gross income:

For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code.

Thus, the IITA expressly provides that Railroad Retirement Benefit payments subject to federal income tax will not be subject to Illinois Income Tax.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely,

Paul S. Caselton
Associate Chief Counsel -- Income Tax